

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

UNITED STATES OF AMERICA	§	
	§	
V.	§	CRIMINAL NO. H-12-440
	§	
ARTURO CHAVEZ-MARTINEZ	§	

REPORT AND RECOMMENDATION

Before the court, by referral pursuant to 28 U.S.C. §636(b), is the matter of the re-arraignment of Arturo Chavez-Martinez. On May 19, 2014, Arturo Chavez-Martinez appeared with counsel before the undersigned magistrate judge for the purpose of entering a guilty plea to the Indictment charging him with illegal reentry into the United States after deportation and after conviction of an aggravated felony, in violation of 8 U.S.C. §§ 1326(a) and (b)(2).

Defendant Chavez-Martinez consented in writing to plead guilty before a United States Magistrate Judge. After conducting said proceeding in the form and manner prescribed by Rule 11 of the Federal Rules of Criminal Procedure, this court makes the following findings of fact:

1. Defendant Arturo Chavez-Martinez, after consultation with counsel of record and with the approval of the government, has knowingly and voluntarily consented to be advised of his rights and to enter a plea of guilty before a U.S. Magistrate Judge subject to final approval and imposition of sentence by United States District Judge Lee Rosenthal.

2. Defendant Arturo Chavez-Martinez is fully competent and capable of entering an informed plea.
3. Defendant Arturo Chavez-Martinez is aware of the nature of the charges, the maximum punishment range and other penalties that may be imposed at sentencing.
4. Defendant Arturo Chavez-Martinez understands his constitutional and statutory rights and wishes to waive those rights.
5. Defendant Arturo Chavez-Martinez understands that Judge Rosenthal, the sentencing judge, is not bound by any recommendation on sentencing made by either counsel for the government or counsel for the defendant, and that if a recommendation on sentencing is not followed by the sentencing judge, he may not withdraw his plea of guilty.
6. Defendant Arturo Chavez-Martinez's plea of guilty is a knowing and voluntary plea supported by an independent basis in fact containing each of the essential elements of the offense charged in Count 1 of the Indictment.

Based upon the foregoing, it is **RECOMMENDED** that the guilty plea of Defendant Arturo Chavez-Martinez to Count 1 of the Indictment be accepted by the court and that Arturo Chavez-Martinez be adjudged guilty of the offense alleged in Count 1 of the Indictment, to wit: illegal re-entry into the United States after deportation and after conviction of an aggravated felony, in violation of 8 U.S.C. §§ 1326(a) and (b)(2).

The Clerk shall send copies of this Report and Recommendation to the respective parties who have fourteen (14) days from the receipt thereof to file written objections thereto pursuant to General Order 2002-13. Failure to file written objections within the time period mentioned shall bar an aggrieved party from attacking the factual findings and legal conclusions on appeal.

The original of any written objections shall be filed with the United States District Clerk, P.O. Box 61010, Houston, Texas, 77208. Copies of such objections shall be mailed to opposing parties and to the chambers of the undersigned, 515 Rusk, Suite 7019, Houston, Texas 77002.

SIGNED at Houston, Texas, this 19th day of May, 2014.



U.S. MAGISTRATE JUDGE